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**DIGEST OF RECENT VIRGINIA DECISIONS.**

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**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

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MATHIAS *v.* HOLLAND et al.

March 16, 1922.

[111 S. E. 134.]

**1. Waters and Water Courses (§ 177 (1\*))—Equity May Enjoin Interference with Drainage Ditches.**—Equity has jurisdiction to entertain suits to enjoin interference with drainage ditches.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 534.]

**2. Injunction (§ 37\*)—If Right Clear or Admitted, No Judgment at Law Necessary.**—On application for a permanent injunction, if plaintiff's right is admitted, or, if not admitted, yet on the evidence the court is of opinion that there is no substantial dispute, but that plaintiff's right is clear, the injunction will issue without a preceding judgment at law.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 521.]

**3. Injunction (§ 37\*)—Plaintiff Must Establish Right at Law before Injunction Will Be Granted If Substantial Dispute.**—When, on an application for an injunction, there is a substantial dispute between the parties, and they have not submitted to have it decided by equity proceedings, the equity court will generally require plaintiff to establish his right at law before granting an injunction.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 521.]

**4. Injunction (§ 37\*)—Plaintiff Held Required to Establish Right at Law before Enjoining Interference with Draining Ditch.**—Where, in a suit to restrain defendant from interfering with a drainage ditch by installing certain pipes and sewers alleged to be too small to carry off the water, and there was a dispute as to whether the long-continued use of the ditch before the drains were put in was adverse or permissive, whether or not a portion of the drain had been in its present condition for more than 15 years, so that plaintiff might be charged with acquiescence, and whether or not the proximate cause of the injuries was the recent diversion of a considerable quantity of water from other lands which did not formerly flow through the drain, there was such a substantial dispute between the parties as to require plaintiff to establish his right at law, before granting a permanent mandatory injunction.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 521.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**5. Waters and Water Courses (§ 179 (1)\*)—Remaindermen Occupying as Tenants Held Entitled to Enjoin Interference with Drain.**—Where remaindermen occupy land as tenants from year to year, they have, in either capacity, such a substantial interest in the property and the appurtenant easement of drainage as to entitle them to maintain a suit to enjoin interference with a drainage ditch.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 534.]

**6. Costs (§ 48\*)—Costs Properly Awarded Defendant Having No Interest in Suit.**—Where in a suit to enjoin interference with a drainage ditch it appears that defendant before suit had sold the land upon which he was charged with obstructing the drainage, it was proper to dismiss the suit as to him and to award him his costs.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 645.]

Appeal from Circuit Court, Accomac County.

Suit by William D. Holland and others against J. Stewart Mathias and another. Decree for complainants, and respondent named appeals. Reversed and remanded.

*Mapp & Mapp*, of Accomac, for appellant.

*Benj. T. Gunter* and *Warren Ames*, both of Accomac, for appellees.

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## HALE v. COMMONWEALTH.

March 16, 1922.

[111 S. E. 136.]

**1. Indictment and Information (§ 121 (4)\*)—Bill of Particulars Not Defective for Failing to Specify Kind of Liquor Sold and to Whom Sold.**—In a prosecution under an omnibus indictment framed under Acts 1918, c. 388, § 7, for the unlawful sale of ardent spirits, the failure of a bill of particulars given on request by defendant, alleging that the state expected to prove that defendant sold ardent spirits, in view of the fact that "ardent spirits" are defined in section 1 of the act, and section 60, providing that it shall not be necessary to allege a gift or sale of ardent spirits, to state what kind of liquor was sold, did not render it defective.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 403.]

**2 Intoxicating Liquors (§ 236 (13)\*)—Evidence Held Sufficient to Sustain Conviction for Selling.**—In prosecution for illegal sale of ardent spirits under Acts 1918, c. 388, § 7, evidence as to the nature of the beverage sold held sufficient to support a verdict of guilty.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 34.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.